

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Nicholas L. DiSalvo
William R. Ziegler

Serial No. : _____

Filed : April 19, 2004

For : Circuit Interrupting Device With Reverse Wiring Protection

Docket No. : 1415CIP3CON3

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO MAKE SPECIAL
UNDER 37 C.F.R. § 1.102(d) AND MPEP 708.02 ITEM II**

Dear Sir:

Applicants respectfully petition to make the above noted application special under the provisions of MPEP 708.02, item II, on the basis of actual infringement as specified under 37 C.F.R. 1.102(d).

The above noted application is being filed concurrently with this petition as a continuation of application with Serial No. 10/223,284 having same title, inventors and assignee for which a Notice of Allowance and Fee(s) Due was mailed by the United States Patent and Trademark Office on January 20, 2004. Further, the application having Serial No. 10/223,284 is a continuation application of application having Serial No. 09/879,563 (now U.S. Patent 6,437,953; issue date: August 20, 2002) which was a continuation of application having Serial No. 09/379,138 (now U.S. Patent 6,246,558; issue date: June 12, 2001).

To obviate any double patenting rejections of the above noted application over prior art patents and to further expedite the prosecution of the above noted application, the owner/assignee of the above noted application, Leviton Manufacturing Company, is also filing concurrently with this petition and the above noted application a terminal disclaimer to obviate a double patenting rejection over prior art patents disclaiming the terminal part of the statutory term of any patent granted on the above noted application which would extend beyond the statutory term of U.S. patent 6,246,558 and U.S. patent 6,437,953 both of which are owned by and assigned to Leviton Manufacturing Company. Leviton Manufacturing Company is also filing concurrently with the above noted application and this petition a terminal disclaimer to obviate a provisional double patenting rejection over the pending application having serial no. 10/223,284 which is owned by and assigned to Leviton Manufacturing Company.

Applicants submit herewith and incorporate herein by reference a declaration (see **Exhibit A**) by an attorney registered to practice before the United States Patent and Trademark Office, Mr. Barry G. Magidoff, showing :

- (A) that there is an infringing device or product actually on the market and/or an infringing method in use;
- (B) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in the opinion of the attorney of record, at least some of the claims are unquestionably infringed;
- (C) that the attorney has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent art; and
- (D) that the attorney believes all the claims are allowable.

Further, the attorney is providing copies of references (not of record) deemed most closely related to the subject matter encompassed by the claims of the above noted application. A list of the references with copies are attached as **Exhibit 2** to **Exhibit A**.

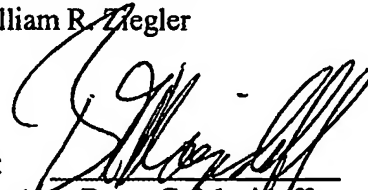
The petitioners therefore respectfully petition that an order be issued directing the above noted application to be made special so that said application may be given immediate action on the merits. The grounds upon which this petition is based are stated in full in the accompanying declaration of Barry G. Magidoff, attorney for applicants, in satisfaction of the requirements of 37 C.F.R. § 1.102(d). Please charge Deposit Account No. 12-1185 of Leviton Manufacturing Co., Inc. the statutory fee of one hundred and thirty dollars (\$130.00) as required pursuant to 37 C.F.R. § 1.17(h).

DATE: April 19, 2004

Respectfully submitted,

Nicholas L. DiSalvo
William R. Ziegler

By:



Barry G. Magidoff
Reg. No. 21,064